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09/654,858	09/05/2000	Tony Altwies	CLB25-D71	7820

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EXAMINER

BACKER, FIRMIN

ART UNIT PAPER NUMBER

3621

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/654,858

Applicant(s)

ALTWIES ET AL.

Examiner

Firmin Backer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 10-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Amendment***

This is in response to an amendment file on May 23<sup>rd</sup>, 2003 for letter for patent filed on September 5<sup>th</sup>, 2000 in which claims 1-17 were presented for examination. Claims 6-9 have been canceled, and claims 18-25 have been added. Claims 1-5 and 10-25 pending in the letter.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 10-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Biddle et al (U.S. Patent Application Pub. No. 2002/0107809 A1).
3. As per claim 1, Biddle et al teach an improved system (*improved distribution system, 20*) for electronic data (*software*) sales and distribution (*distribution*) over wide area computer networks (*internet, 35*) (*see abstract figs 1, 2, page 2, paragraphs 0013, 0015, and 0016, page 4 paragraph 0049*), the networks comprising a network conduit (*data links 45, 50 and 55*), at least one e-commerce server computer (*distributor 25, vendor 40*) in communication (*interconnected*) with the network conduit (*see fig 1, page 4, paragraph 0049*), , and at least one customer terminal computer (*user computer, 30*) in communication (*interconnected*) with the network

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conduit, each the computer comprising input means, display means, processing means, storage means and means for communicating with the network conduit (*see page 4 paragraph 0050*), the system comprising e-commerce site means (*distributor 25, vendor 40*) for presenting e-commerce functions (*online transactions enabling purchase*) to each the customer in communication with the e-commerce server computer via the network conduit (*see fig 1, page 5, paragraph 0053, 0054*) licensing module means (*license server, 82*) for giving (*allowing*) each the customer terminal computer permission to download (*download*) a program module (*software application*) to the customer terminal computer (*user computer, 30*), the licensing module means comprising an executable software application being executed (*run license application, on each the customer terminal computer engaged in the improved system (see fig 17, page 5 paragraph 0054, 0055, page 6 paragraph 0056, 0057, 0058)*) and program download site means (*distributor 25, vendor, 40*) for providing a program module (*software application*) for downloading (*downloading*) to each the customer terminal computer responsive to a user request (*see fig 1, page 5, paragraph 0054 (bottom)*).

4. As per claim 2, Biddle et al teach an improved system wherein the e-commerce site means comprises an executable software application being executed by the processing means of the e-commerce server computer and the program download site means comprises an executable software application being executed by a processing means in a program module server computer, the e-commerce server computer and the program module server computer being distinct from one another (*see fig 1, page 5, paragraph 0053, 0054*).

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5. As per claim 3, Biddle et al teach an improved system wherein the e-commerce site means further provides each the customer terminal computer with the ability to download the licensing module means (*see fig 1, page 5, paragraph 0053, 0054*).

6. As per claim 4, Biddle et al teach an improved system further comprising a supplier terminal computer (*distributor 25*) in local area network communication with the program module server computer (*see fig 1, page 5, paragraph 0053, 0054*).

7. As per claim 5, Biddle et al teach an improved system wherein the functionality of the program module is responsive to output from the licensing module, the program module and the licensing module each comprising executable software applications, wherein output from the licensing module is input to the program module when the program module and the licensing module are executed on the processing means of a single computer (*see fig 1, page 6, paragraph 0056, 0057*).

8. As per claim 10, Biddle et al teach an improved system for software distribution (*improved distribution system, 20*) over wide area computer networks (*internet, 35*), the networks comprising a network conduit (*data links 45, 50 and 55*), at least one e-commerce server computer (*distributor 25, vendor 40*) in communication (*interconnected*) with the network conduit, at least one customer terminal computer (*user computer, 30*) in communication with the network conduit, and at least one supplier server computer (*distributor 25, vendor 40*) in communication (*interconnected*) with the network conduit, each the computer comprising at least

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one programmable computer comprising input means, display means, processing means, storage means and means for communicating with the network conduit (*see abstract figs 1, 2, page 2, paragraphs 0013, 0015, and 0016, page 4 paragraph 0049, 0050*), the system comprising e-commerce site means (*licensing server, 82*) for distributing licensing modules (*licensing*) to each the customer terminal computer via the network conduit; and program download site means (*distributor 25, vendor 40*) for distributing program modules (*software*) to each the customer terminal computer via the network conduit (*see fig 1, page 5, paragraph 0053, 0054, 0055*).

9. As per claim 11, Biddle et al teach an improved system wherein the e-commerce site means comprises an executable software application being executed on the e-commerce server computer (*see fig 1, page 5, paragraph 0053, 0054*).

10. As per claim 12, Biddle et al teach an improved system wherein the program download site means comprises an executable software application being executed on the supplier server computer (*see fig 1, page 5, paragraph 0053, 0054*).

11. As per claim 13, Biddle et al teach an improved system wherein the licensing modules and the program modules each comprise executable software applications for execution on programmable computers, each the licensing module cooperating with one the program module to function as a whole software application (*see fig 1, page 5, paragraph 0054, 0055*).

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12. As per claim 14, Biddle et al teach an improved system wherein each the distribution of one the program module is responsive to the prior execution of one the licensing module on one the customer terminal computer (*see fig 1, page 5, paragraph 0053, 0054*).

13. As per claim 15, Biddle et al teach an improved system wherein each the distribution of one the program module commences automatically in response to user input to the executed licensing module through the input means of the customer terminal computer (*see fig 1, page 5, paragraph 0053, 0054*).

14. As per claim 16, Biddle et al teach an improved system wherein the execution of the program module defines a licensed condition and an unlicensed condition, the program module executes in the licensed or unlicensed condition responsive to output from the licensing module (*fig 2, page 6 paragraph 0057*).

15. As per claim 17, Biddle et al teach an improved system wherein execution of the program module in the unlicensed condition is permitted for a pre-defined period of time, whereby expiration of the pre-defined period of time will prevent the program module from further execution (*see fig 9 and 10, page 6 paragraph 0059*).

16. As per claims 18-25, they disclose the same inventive concept as claims 1-5 and 10-17. Therefore they are rejected under the same rationale.

*Response to Arguments*

17. Applicant's arguments filed May 23<sup>rd</sup>, 2003 have been fully considered but they are not persuasive.

a. Applicant argues that the prior art (Biddle et al) fail to teach an inventive concept for given customer permission to download a program module to the customer terminal. Examiner respectfully disagrees with applicant's characterization of Biddle's inventive concept. Biddle et al teach an inventive concept wherein a global on-line commerce system may be constructed is represented. In the process an agreement between a software vendor and distributor has been finalized, the distributor 25 sends a "toolkit" to the vendor that the vendor uses the toolkit to prepare the vendor software by making modifications to the software applications. The vendor then compiles the software application with the new modifications and additions and sends the compiled version of the software to the distributor. The distributor wraps the software and sends it back to the vendor. The vendor then adds the wrapped software application to an install program and sends it back to the distributor. The distributor then adds the software application to the electronic store to allow users 30 to download the software application to a user computer. After downloading and installing the application, user has the option of obtaining a license for the application, for example, either in the form of a free trial period, by purchasing a subscription, or purchasing a long-term license. After obtaining a license, user can then run the application. Furthermore in order for the user to download the application permission has to be granted from the distributor. However, to run the



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application, the user has to obtain a license from the distributor. Furthermore, an access control service is responsible for creating the appropriate session to process requests.

There may be at least two kinds of sessions: a wrapped session created to process each license request sent by protected applications where the request is validated by the session and server-side scripts are executed to process the request; and a client session created for each instance of the access tool connected to the licensing server where the request is validated and the licensing database is accessed using server objects. The client session remains active until the access tool exits or the network connection is lost.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

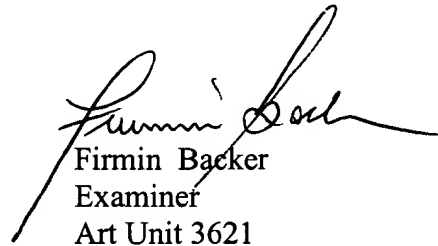
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

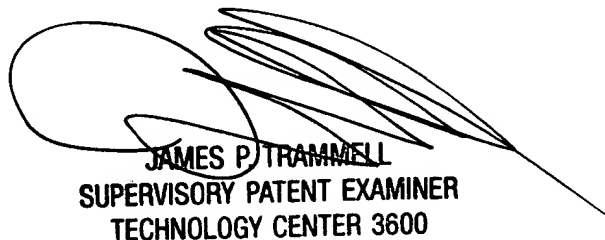
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Firmin Backer  
Examiner  
Art Unit 3621

September 4, 2003



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